

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #1	CCRB Case #: 201608200	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/24/2016 11:10 PM	Location of Incident: West 46th Street and 8th Avenue	Precinct: 18	18 Mo. SOL 3/24/2018	EO SOL 3/24/2018	
Date/Time CV Reported Sun, 09/25/2016 9:39 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 09/25/2016 9:39 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Sasso	16055	955450	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Philip Siu	07496	955501	PBMS

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Sasso	Force: Police Officer Anthony Sasso used physical force against an individual.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On September 24, 2016, at approximately 11:10 p.m., § 87(2)(b) and her friend, § 87(2)(b) were walking north on 8th Avenue in Manhattan. When they approached West 46th Street, they observed that it was closed off with barricades. However, the barricades were set back about 50 feet from the crosswalk. When a white or grey cargo van pulled onto West 46th Street, PO Anthony Sasso, of Patrol Borough Manhattan South, attempted to guide it backward and onto 8th Avenue. Pedestrians continued crossing the street behind the van despite the fact that it was backing up with PO Sasso guiding it. PO Sasso reportedly yelled at the pedestrians, and most eventually stayed on the corners of the sidewalk.

Approximately two minutes after the van had pulled onto West 46th Street, § 87(2)(b) who § 87(2)(b) described as a middle-aged Asian male with thinning black hair, entered the crosswalk. PO Sasso approached this individual, placed both hands on the man's shoulders, and shoved him to the ground near the middle of the crosswalk (**Allegation A**). PO Sasso resumed guiding the van out of West 46th Street while § 87(2)(b) and an unknown bystander entered the crosswalk to help the individual from the ground. PO Sasso later interacted with other members of the crowd who protested his actions, but he did not speak with the man whom he had pushed. § 87(2)(b) did not speak with PO Sasso but remained on scene until she could read his name from his shield. There were no arrests made or summonses issued in relation to this incident.

Video footage was obtained from a nearby building, 247 West 46th Street. However, none of the building's cameras captured the incident.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

§ 87(2)(b) declined to mediate this complaint § 87(2)(b)

As of December 20, 2016, a Notice of Claim has not been filed in regard to this incident [01 Board Review]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

This is the first CCRB case featuring § 87(2)(b) or § 87(2)(b) [03 Board Review].

This is the first CCRB case filed against PO Sasso during his three year tenure.

Potential Issues

§ 87(2)(b) did not know the identity of the victim in this case. There was no documentation available from the NYPD concerning the incident or the identity of the victim.

A request for video footage was sent to TARU as a nearby camera was discovered by the CCRB's Field Team. The request was sent on September 29, 2016, and a follow-up email was

sent to Sgt. John Macari of IAB that same day requesting to expedite the request. The request was returned with negative results on November 23, 2016 as the footage had expired [see IAs].

Findings and Recommendations

Allegation A – Force: Police Officer Anthony Sasso used physical force against

§ 87(2)(b)

§ 87(2)(b) testified that she and her friend, § 87(2)(b) were walking north on the east side of 8th Avenue in the direction of West 46th Street. According to § 87(2)(b) West 46th Street was closed east of 8th Avenue. However, the barricades, which were set back approximately 50 feet from the crosswalk, were not visible to cars turning east from 8th Avenue, and several mistakenly pulled onto West 46th Street. In particular, § 87(2)(b) observed a grey or white cargo van turn east onto West 46th Street. PO Sasso entered the area of the intersection and attempted to guide the van backward and off of West 46th Street, but numerous pedestrians continued crossing the street behind the van. § 87(2)(b) stated that PO Sasso was agitated and yelled at pedestrians to stay out of the street. Shortly thereafter, most pedestrians stayed on their respective corners, save for one individual.

According to § 87(2)(b) about one to two minutes after the van pulled onto West 46th Street, a middle-aged Asian male with thinning black hair and a striped shirt crossed West 46th Street in the crosswalk. Then, PO Sasso, who had been guiding the van, approached the man, placed both hands on the man's shoulders, and shoved him to the ground near the middle of the crosswalk. § 87(2)(b) did not remember PO Sasso saying anything to the man beforehand, nor did he make any physical gestures toward or physical contact with the man before shoving him. § 87(2)(b) believed that the man had crossed into the van's path but did not feel that he was in danger of being struck by the van because he was "speed walking" across the street. Further, she asserted that the van was either moving slowly or was stopped as PO Sasso cleared the intersection. The man remained on the ground, and PO Sasso did not say anything to him or take any other actions in regard. Rather, PO Sasso returned to the van and resumed guiding it backward. The van was feet from the man at that time.

About 30 seconds after the man was pushed, § 87(2)(b) and an unknown teenage male ran from the sidewalk to help him up from the ground. § 87(2)(b) assisted in lifting him and asked if he was okay, if he needed help, and if he wanted an ambulance. By then, PO Sasso had "stormed off" behind a barrier. The man shook his head and may have said no in accented English. § 87(2)(b) did not believe that the man spoke English. She believed that § 87(2)(b) was still on the sidewalk during this part of the incident. The man limped away and held his left hip as he left the scene on his own. Other members of the crowd protested PO Sasso's actions and later argued with him face to face when he returned from behind the barrier, though § 87(2)(b) participated in no such conduct and did not speak with PO Sasso. Rather, she waited on scene until she was able to read his name from his shield and then left [04, 11 Board Review].

§ 87(2)(b) corroborated § 87(2)(b)'s version of the events in stating that a van was backing out of the closed portion of West 46th Street when an Asian male, who was in his 30s, had short hair, glasses, and may have worn a black sweater, stepped into the crosswalk of West 46th Street and headed south. § 87(2)(b) did not believe that the man was in any danger as the van was backing

up. According to § 87(2)(b) PO Sasso approached the man and pushed him by placing both hands on his chest. The man fell to the ground and did not get up immediately. As such, other civilians went to his aid. § 87(2)(b) did not remember if the man appeared injured. However, he felt that the man did not speak English based on his body language and lack of response as others spoke to him. § 87(2)(b) did not remember if the man continued south after getting up, but he did leave on his own.

According to § 87(2)(b) others in the crowd in the surrounding area argued with PO Sasso regarding his conduct. PO Sasso was angry and asserted that he had pushed the man out of the way of a bus. There was no bus present. During his statement to the CCRB, § 87(2)(b) stated that he felt the man would have been safer walking behind the van than being pushed by PO Sasso [05 Board Review].

PO Sasso testified that he was blocking traffic at the intersection of West 46th Street and 8th Avenue as part of a detail for the protection of Prime Minister Benjamin Netanyahu. § 87(2)(e) PO Sasso was not wearing a traffic vest or anything in addition to his standard uniform. Other officers were securing barriers, which were not NYPD property but were borrowed from nearby establishments, around the sidewalks to prevent pedestrians from entering the street. Although the lighting conditions were normal, there were no flares, barricades in the roadway, or other markings to signify that West 46th Street was closed to any type of traffic. According to PO Sasso, the detail came together last minute, and the officers were generally unprepared and without sufficient resources.

PO Sasso revealed that traffic in the area was generally busy, but there was not a heavy volume on West 46th Street due to the partial closure. There were hundreds to a thousand civilians in the area, which is typical for the Times Square area on a weekend.

According to PO Sasso, a box truck pulled into the east side of the intersection of West 46th Street and 8th Avenue. PO Sasso informed the driver that he would have to back up when it was safe to do so. He also advised the driver that he would block pedestrian traffic to allow him to back out of the area of the eastern crosswalk. The driver argued for a few seconds but relented when PO Sasso told him that there was going to be a problem if he went through.

PO Sasso stated that although the traffic light gave pedestrians the right of way, he instructed them to remain on the sidewalks. He was the only officer participating in guiding the box truck back from the intersection. PO Sasso did not believe that his partner, PO Phillip Siu, was nearby. He guided it back by waving one hand while holding the other hand extended toward pedestrians on the sidewalk to signal them to stop. PO Sasso did not use his flashlight or any other instruments to guide the truck. Pedestrians generally complied and remained on the sidewalk, save for one individual. An unidentified male, who PO Sasso described as a 5'9" bald Hispanic male between 30 and 50 years of age, entered the crosswalk and headed southbound as the box truck was backing up. PO Sasso reported that the male had headphones on his ears. PO Sasso stated during his CCRB interview that the noise level in the area was not so loud that the male would not have been able to hear him had he not been wearing headphones.

PO Sasso asserted that when he first noticed the male, he and the male were both in the middle of West 46th Street. PO Sasso clarified that he was about ten feet east of the crosswalk on West 46th Street, and the male was between PO Sasso and the box truck. Further, he estimated that the male was approximately five feet from the box truck at that point, and that the driver was accelerating quickly and moving at about 20 miles per hour in reverse. However, PO Sasso acknowledged that he had no training in determining speed.

PO Sasso testified that he assessed the situation based on the abovementioned factors, and he determined that the male described above was in danger of being struck by the still moving box truck. PO Sasso then pushed the male out of the way of the box truck by placing both hands on the front of the male's shoulders and partially extending his arms. PO Sasso reported that he did this so that neither he nor the male would be struck by the box truck. He also acknowledged that he made no attempts to verbally communicate with the male before pushing him, nor did he make any attempts to stop the box truck. PO Sasso felt that there was no time to take any other measures as he estimated that the male was about one foot from the box truck at the time PO Sasso pushed him. The male stumbled back five steps and fell to his buttocks near the northern sidewalk. PO Sasso had not intended for the male to fall.

PO Sasso reported that he finished backing the box truck out of the intersection before checking to see if the male was okay. He approached the male ten seconds later and asked if he was ok and if he needed an ambulance. The male responded to neither question but did not appear to be injured. PO Sasso was not aware of an existing language barrier. He did not remember if any civilians approached the male before he did so himself. According to PO Sasso, the male walked away of his own volition, did not limp, and exhibited no behaviors to suggest that he was injured. PO Sasso obtained no information about this male.

PO Sasso acknowledged that members of the crowd protested his actions, and that he argued with them about whether his actions were justified. PO Sasso also asserted that an unidentified member of the crowd approached him, said he had observed the entire interaction, and thanked PO Sasso for saving the male's life. PO Sasso obtained no information for the individual who complimented his actions [06 Board Review].

PO Siu corroborated PO Sasso's testimony that he was not nearby at the moment that PO Sasso used force against the male. Rather, he reported that he was in front of what he described as a van that was backing out of the intersection. PO Siu heard an eruption of voices from the area near PO Sasso, so he went to PO Sasso to see what was going on. No other factors drew PO Siu's attention.

When PO Siu arrived near PO Sasso, he observed a white male lying on his back in the street. He was roughly in the area of the crosswalk running north-south across West 46th Street. PO Siu described this male, who wore over-the-ear headphones, as appearing to be in his 30s.

According to PO Siu, PO Sasso explained to him that the male had been trying to cross the street as the van was backing out. PO Sasso also stated that he had verbally told the male to stop, but that the male did not hear him. PO Sasso added that as the male kept moving, PO Sasso pushed him out of the way at the last minute. PO Siu did not know how fast the van had been traveling

when backing up because he was not watching it at that time. When asked to describe PO Sasso's demeanor at that moment, PO Siu stated that he did not know. When pressed further and asked if PO Sasso seemed upset, PO Siu stated that he believed that PO Sasso was upset that the male did not hear his verbal directive to stop. PO Siu did not remember what about PO Sasso's behavior led him to believe that PO Sasso was upset.

PO Siu stated that the male got up on his own and did not require assistance. He did not know if PO Sasso or any other officer inquired with the male to see if he was okay or if he needed an ambulance, though he stated that neither he nor PO Sasso spoke with the male. PO Siu reported that the male did not limp or appear injured.

PO Siu corroborated all testimonies concerning others in the crowd protesting PO Sasso's conduct, as well as a subsequent conversation between PO Sasso and those individuals. He also corroborated PO Sasso's assertion that an unidentified civilian approached the officers and complimented PO Sasso. However, PO Siu made no mention of obtaining any identifying information for the individual [07 Board Review].

A request for any TRI prepared for this incident produced negative results. Requests for summonses issued during this incident, Z-Finest and OMNIX checks run for § 87(2)(b) and a UF250 Index produced negative results [08 Board Review]. PO Sasso's memo book contained no entries for the incident or its aftermath [09 Board Review].

According to Patrol Guide procedure 221-01, in determining whether the use of force is reasonable, an officer must consider, among other factors, the immediacy of a perceived threat or harm to the subject, members of the service, or bystanders. When appropriate, a member of the service will use only the reasonable force necessary to gain control of a subject [10 Board Review].

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]
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Squad: 1

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date